



Handwritten initials: JR and QAC

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Kirstan Vandersluis

EXAMINER: Burgess, Barbara N

SERIAL NO.: 09/992,791

GROUP: 2157

FILED: November 19, 2001

CASE NO.: XAW-0103

ENTITLED: Method for Componentization of Electronic Document Processing

Law Offices of Dale B. Halling
655 Southpointe Court, Suite 100
Colorado Springs, CO 80906

November 19, 2008

**PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 CFR 1.137 (b)
REQUEST FOR RECONSIDERATION**

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

Applicants respectfully ask for reconsideration of the petition, which was denied on November 12, 2008, under 37 CFR 1.137 (b) that the application captioned above be revived as a pending application of one unintentionally abandoned.

In this reconsideration, a Notice of Appeal is enclosed.

A Petition to Revive an Unintentionally Abandoned Application must be accompanied by (1) a proposed response (unless previously filed), (2) a petition fee, (3) a statement that the abandonment was unintentional, and (4) any required terminal disclaimer. 37 CFR 1.137(b).

(1) A Notice of Appeal is enclosed.

(2) The petition fee was previously submitted.

(3) The entire delay in filing the required reply (one day late) from the due date of December 10, 2007 until the filing of the grantable petition was unintentional. The application clearly intended to file a responsive reply. However the PTO failed to contact the applicant's attorney until May 15, 2008 (mailed) that the response was one day to late. Instead of asking for the money for a one month extension, the PTO decided the case had been abandoned. Note that the PTO has regularly failed to make its required deadlines in this case. For instance the case was filed in November of 2001 and the first Office Action was not received until February 2005. The PTO's first response was over 24 months late. The PTO did not pay the applicant for this delay. The lack of customer service from the PTO and the injustice of charging clients a fee for the delay in this case is unconscionable. **The applicant demands a refund of the difference between this petition and the cost of a one month delay.**

(4) No terminal disclaimer is required for this case as the case was filed after June 8, 1995.

Applicants respectfully petition that the application captioned above be revived as a pending application.

Respectfully submitted,

(Vandersluis)



By /dbh/
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Certificate of Mailing

I hereby certify that a Petition is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, on:

11-21-08
Date

Shirley Jones
Signature



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United States Patent and Trademark Office
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OFFICE OF PETITIONS

LAW OFFICE OF DALE B. HALLING, LLC
655 SOUTHPOINTE CT, SUITE 100
COLORADO SPRINGS CO 80906

In re Application of
Kirstan Vandersluis, et. al.
Application No. 09/992,791
Filed: November 19, 2001
Attorney Docket No. XAW-0103

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of September 10, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on December 17, 2007 does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further, Petitioner should note that the Examiner has responded to the Amendment after Final with an Advisory Action Form (copy enclosed).


Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.


Brian W. Brown
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action Form



**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/992,791

Applicant(s)

VANDERSLUIS ET AL.

Examiner

BARBARA N. BURGESS

Art Unit

2457

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 1-18.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see notes below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

The Office notes the following argument(s):

- (a) Prompt does not mention XML.
- (b) Prompt does not mention anything about a bizdocument.
- (c) Prompt does not mention anything about the bizdocument defining a data message.
- (d) Prompt does not provide a client system the ability to request a specific bizdocument.

Applicant's arguments have been considered but are not persuasive.

In response to:

(a) Prompt teaches the user accessing the Internet and processes HTML, XML, XSL, and other languages to generate images on the user's display. Prompt further teaches the user accessing directories/databases. Mapping, translating, encoding relational objects, such as tables, columns, attributes, into external format (XML) to be accessed by the user is taught. Directory/database information is encoded into a standard format, such as XML, and stored. This information is accessed by the user (paragraphs [0142, 0159, 0167-0169, 0174]). Therefore, Prompt indeed discloses XML.

(b)-(c) A bizdocument is a document or data containing business information.

Prompt teaches directories/databases storing data that can be used to drive e-commerce and e-business application. Users can locate specific data records with specific information such as a sales total, an inventory level, price point from the directory/database. Prompt further teaches a company's sales representatives have need to access customer's expenditures, customer and vendor receivables, payables, purchases, and sales volume. This information is accessed using the directory/database (paragraphs [0024-0025, 01130121, 0124]).

Therefore, Prompt, undoubtedly, discloses bizdocuments defining a data message.

(d) Prompt teaches users browsing and/or searching the directory/database to find data needed. They can query with simple commands to search for information needed. With the address of a specific data record, a user can locate very specific information such as sales totals. Hierarchical computing system, including one or more client computers, user stations, clients, enables users to request data from the directory/database (paragraphs [022, 0025, 0129, 0132, 0168-0169]).

Therefore, Prompt explicitly teaches the client system having the ability to request a specific bizdocument.